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4 STRIKE 3 HOLDINGS, LLC,  
5 Plaintiff,  
6 v.  
7 JOHN DOE SUBSCRIBER ASSIGNED IP  
8 ADDRESS 76.14.8.147,  
9 Defendant.

10 Case No. 21-cv-09845-JCS  
11

12  
13 **ORDER GRANTING EX PARTE  
14 APPLICATION**  
15 Re: Dkt. No. 9  
16

17 Plaintiff Strike 3 Holdings, LLC moves ex parte for leave to serve a third party subpoena  
18 prior to a Rule 26(f) conference. The Court being duly advised does hereby FIND, ORDER  
19 AND ADJUDGE:

20 1. Plaintiff has established that “good cause” exists for it to serve a third party  
21 subpoena on Wave Broadband. *See UMG Recording, Inc. v. Doe*, 2008 WL 4104214, \*4 (N.D.  
22 Cal. 2008); and *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6-7 (D.D.C. 2008).

23 2. Plaintiff may serve Wave Broadband with a Rule 45 subpoena commanding Wave  
24 Broadband to provide Plaintiff with the true name and address of the Defendant to whom Wave  
25 Broadband assigned the IP address 76.14.8.147. Plaintiff shall attach to any such subpoena a copy  
of this Order.

26 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any  
27 service provider that is identified in response to a subpoena as a provider of Internet services to  
28 Defendant (together with Wave Broadband, the “ISPs”).

29 4. IT IS FURTHER ORDERED that subpoenas authorized by this order and issued  
30 pursuant thereto shall be deemed appropriate court orders under 47 U.S.C. § 551. In particular, 47  
31 U.S.C. § 551(c)(2)(B) provides as follows:

1 (c) Disclosure of personally identifiable information

2 [ . . . ]

3 (2) A cable operator may disclose such information if the disclosure is—

4 [ . . . ]

5 (B) subject to subsection (h) [relating to disclosures to governmental  
6 agencies] of this action, made pursuant to a court order authorizing such  
disclosure, if the subscriber is notified of such order by the person to whom  
the order is directed . . . .

7 This order is an order authorizing such disclosure.

8 5. **IT IS FURTHER ORDERED** that each ISP will have 30 days from the date of  
9 service upon it to serve each of its subscriber(s) whose identity information is sought with a copy  
10 of the subpoena and a copy of this order. The ISPs may serve the subscribers using any  
11 reasonable means, including written notice sent to the subscriber's last known address, transmitted  
12 either by first-class mail or via overnight service.

13 6. **IT IS FURTHER ORDERED** that each subscriber and each ISP shall have 30  
14 days from the date of service upon him, her or it to file any motions in this court contesting the  
15 subpoena (including a motion to quash or modify the subpoena). If the 30-day period after service  
16 on the subscriber lapses without the subscriber or the ISP contesting the subpoena, the ISP shall  
17 have 10 days to produce to Plaintiff the information responsive to the subpoena with respect to  
18 that subscriber.

19 7. **IT IS FURTHER ORDERED** that any ISP that receives a subpoena shall preserve  
20 all subpoenaed information pending the ISP's delivering such information to Plaintiff or the final  
21 resolution of a timely filed motion to quash the subpoena with respect to such information.

22 8. **IT IS FURTHER ORDERED** that any information disclosed to Plaintiff in  
23 response to a subpoena may be used by Plaintiff solely for the purpose of protecting its rights  
24 under the Copyright Act, 17 U.S.C. § 101 et seq.

1           **9. IT IS FURTHER ORDERED** that any name or other personal identifying  
2 information of any current or proposed defendant shall be filed UNDER SEAL in all filings and  
3 not otherwise disclosed.

4           **IT IS SO ORDERED.**

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6 Dated: January 4, 2022

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JOSEPH C. SPERO  
Chief Magistrate Judge

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11 United States District Court  
12 Northern District of California  
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